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1/28/04

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Kotzin)
 For: Method and Apparatus for)
 Distributing Processing Load for)
 Decoding Radio Frequency)
 Transmissions)
 Serial No.: 09/602,727)
 Filed: June 26, 2000)
 Examiner: Lc, D.)
 Art Unit: 2683)

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Attention: Board of Patent Appeals and Interferences

APPELLANTS' BRIEF

This brief is in furtherance of the Notice of Appeal, mailed on August 21, 2003.

The fees required under § 1.17, and any required petition for extension of time for filing this brief and fees therefor, are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

This brief is being transmitted by facsimile, and therefore the requirement that it be transmitted in triplicate is believed to be waived.

This brief contains these items under the following headings, and in the order set forth below (37 C.F.R. § 1.192(c)):

- I REAL PARTY IN INTEREST
- II RELATED APPEALS AND INTERFERENCES

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- III STATUS OF CLAIMS
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- IX APPENDIX OF CLAIMS INVOLVED IN THE APPEAL

I. REAL PARTY IN INTEREST

The real party in interest in this appeal is Motorola, Inc., a Delaware corporation.

II. RELATED APPEALS AND INTERFERENCES

With respect to other appeals or interferences that will directly affect, or be directly affected by, or have a bearing on the Board's decision in this appeal, there are no such appeals or interferences.

III. STATUS OF CLAIMS

A. TOTAL NUMBER OF CLAIMS IN APPLICATION

Claims in the application are: 42

B. STATUS OF ALL THE CLAIMS

- 1. Claims canceled: none
- 2. Claims withdrawn from consideration but not canceled: none
- 3. Claims pending: 1-42
- 4. Claims allowed: none
- 5. Claims objected to: 25

6. Clams rejected: 1-24 and 26-42

C. CLAIMS ON APPEAL

The claims on appeal are: 1-24 and 26-42

IV. STATUS OF ANY AMENDMENTS AFTER FINAL

No amendments have been filed after final.

V. SUMMARY OF INVENTION

The invention pertains to a mobile station operable in a radio communication system, and a method for receiving a radio communication in a radio communication system, where the radio communication system has a plurality of mobile stations, which are each capable of receiving a radio communication directly from a remote radio (page 12, line 23 to page 13, line 2). Instead of each of the mobile stations receiving radio communications directly from the remote radio, one or more of the mobile stations alternatively receive radio communications from the remote radio, via a selected one of the mobile stations (page 10, lines 17-20), that is located locally relative to the one or more mobile stations (page 10, lines 14-16). In other words only the one or more selected mobile station receives the radio communications intended for the each of the associated mobile stations from the remote radio (page 13, lines 2-3). The selected mobile station then forwards, via a direct local radio communication, any of the radio communications received from the remote radio, which are intended for one of the other associated mobile stations (page 11, lines 10-14).

In at least some instances, this will allow a non-selected to mobile station to selectively disable communications with the remote radio, which could include communications intended for one of the one or more associated mobile stations, as well as communications for other non-related mobile stations (page 13, lines 2-3). Still further this enables the non-selected mobile station to listen to and only enable the circuitry associated with receiving the local radio communications transmitted by the selected mobile station. Conversely, circuitry associated with receiving radio communications from a remote radio for a non-assigned mobile can be

selectively disabled (page 13, lines 3-5). In some instances, the decoding operation may be sequentially distributed among the multiple mobile stations (page 13, lines 11-25).

In at least one embodiment the communications received from the remote radio are associated with a first radio communication, such as cellular radiotelephone systems (page 4, line 29 to page 5, line 4), and the local radio communications are associated with a second radio communication, such as Bluetooth (page 6, line 11). In yet a still further embodiment, the power requirement (i.e. transmit power) of the local radio communication is low relative to the power requirement (i.e. transmit power) of the radio communication with the remote radio (page 9, line 25-27).

VI. ISSUES

1. Whether claims 1, 3, 4, 6-8, 10-12 and 18-20 have been improperly rejected under 35 U.S.C. 102(b) as being anticipated by Pequet (EP Published Application No. 0,698,303).
2. Whether claims 14, 15 and 17 have been improperly rejected under 35 U.S.C. 102(b) as being anticipated by Luzzatto (US Patent No. 5,689,802).
3. Whether claims 9 has been improperly rejected under 35 U.S.C. 103(a) as being unpatentable over Pequet (EP Published Application No. 0,698,303).
4. Whether claims 13, 16, 21-24 and 26-40 have been improperly rejected under 35 U.S.C. 103(a) as being unpatentable over Pequet (EP Published Application No. 0,698,303) in view of Lehmusto (US Patent No. 6,108,551).
5. Whether claims 41 and 42 have been improperly rejected under 35 U.S.C. 103(a) as being unpatentable over Pequet (EP Published Application No. 0,698,303) in view of Luzzatta (US Patent No. 5,689,802).
6. Whether claim 2 has been improperly rejected under 35 U.S.C. 103(a) as being unpatentable over Pequet (EP Published Application No. 0,698,303) in view of Minamisawa (US Patent No. 6,026,303).

7. Whether claim 5 has been improperly rejected under 35 U.S.C. 103(a) as being unpatentable over Pequet (EP Published Application No. 0,698,303) in view of Kinnunen (US Patent No. 6,052,557).

VII. GROUPING OF CLAIMS

Group 1:	Claims 1-5, 7-11, 18-20 and 26-27
Group 2:	Claim 6
Group 3:	Claims 12 and 13
Group 4:	Claims 14-17
Group 5:	Claims 21-24
Group 6:	Claims 28-40
Group 7:	Claims 41 and 42

VIII. ARGUMENTS – REJECTIONS UNDER 35 U.S.C. § 102

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the ... claim. Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

The Examiner has rejected claims 1, 3, 4, 6-8, 10-12 and 18-20 as being anticipated by Pequet (EP Published Application No. 0,698,303). However contrary to the Examiner's assertions, Pequet, '303, fails to make known each and every element as set forth in independent claims 1 and 18, as well as each of the associated dependent claims. Pequet, '303 fails to make known or obvious a plurality of mobile stations, each of which is capable of receiving radio communications directly from a remote radio, one of which is selectively assigned to receive radio communications for intended for one or more of the plurality of mobile stations, and then transmitting a local radio communication to the intended recipient.

Alternatively Pequet, '303, is more specifically directed to a mobile station forwarding a radio communication to another mobile station, which is out of range (i.e. out of the coverage area) of the base station (col. 3, lines 19-22). In essence, Pequet, '303, operates only to relay or repeat messages, which could otherwise not be directly conveyed. This is further supported, by the dashed line in FIG. 1, which serves to define the transmission range of the base station BS. While mobile station M1 and mobile station M2 are both within the transmission range of the base station BS, there is no teaching or suggestion for one of the two mobile stations to receive and forward any messages from the base station to the other mobile station. To the extent that there are any communications between the two mobile stations (M1 and M2), the communications are described only as direct communications without the use of the base station.

Consequently, contrary to the Examiner's assertions, Pequet, '303, fails to make known every feature of the claims, as required in support of the claims, and therefore fails to anticipate either claims 1 or 18 or any of the claims which depend therefrom.

Relevant to claim 6, which is dependent upon claim 1, Pequet, '303, additionally fails to make known de-assigning a first mobile station and assigning another mobile station of the plurality of mobile to receive radio communications intended for one or more of the plurality of mobile stations. In the case of Pequet, '303, this is especially problematic in view of several of the mobile stations being outside of the communication range of the base station.

Further more relative to claim 12, Pequet, '303, fails to identify more than a single protocol, namely (TDMA). Still further, Pequet, '303, fails to distinguish between a radio communication and a local radio communication. Consequently, Pequet, '303, fails to make known a first communication protocol relative to the radio communication, and a second communication protocol relative to the local radio communication, as suggested by the Examiner.

Relative to claims 14, 15 and 17, the Examiner has rejected the claims as being anticipated by Luzzatto (US Patent No. 5,689,802). However, similar to Pequet, '303, Luzzatto, '802, is similarly limited to a repeat or relay function, as opposed to a mobile station being selectively assigned to receive radio communications from a remote radio for one or more of a plurality of mobile stations, which are each capable of receiving the radio communications

directly from the remote radio. More specifically, Luzzatto, '802, addresses the situation where two vehicles, are temporarily not able to contact each other because of adverse terrain conditions, except through a third vehicle, that is favorably positioned relative to the two other vehicles (col. 1, lines 10-18). Consequently, Luzzatto, '802, similarly fails to make known each and every feature of the claims, and as a result fails to anticipate independent claim 14, as well as any of the associated dependent claims (including claims 15 and 17).

The applicants would respectfully request that both sets of rejections be reversed, in view of the above noted deficiencies, and that the claims be permitted to proceed to allowance.

VIIIB. ARGUMENTS – REJECTIONS UNDER 35 U.S.C. § 103

The remaining claims have been rejected under 35 U.S.C. 103(a) as being obvious in view of various references, where in each instance the base reference is either the above discussed Pequet, '303, or Luzzatto, '802. However, in each instance, the noted base reference are similarly equally inapplicable. Still further, in each instance, the to be identified deficiencies are not corrected by the associated references.

The Federal Circuit has repeatedly emphasized that, with respect to obviousness, the standard for patentability is the statutory standard. The inquiry is whether the claimed subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art. In this regard, see for example, Monarch Knitting Machinery Corp. v. Saulzer Maurat GMBH, 139 F.3d 877, 881, 45 USPQ2d 1977, 1981 (Fed. Cir. 1998).

For purposes of formulating an obviousness type rejection, the Patent and Trademark Office (PTO) has the initial burden of presenting a prima facie case. In re Mayne, 104 F.3d 1339, 1341, 41 USPQ2d 1451 (Fed. Cir. 1997). In order to establish a prima facie case of obviousness, it must be shown that the prior art reference, or references when combined, teach or suggest all of the claim limitations. Pro-Mold and Tool Co. v. Great Lakes Plastics Inc., 75 F.3d 1568, 37 USPQ2d 1626, 1629 (Fed. Cir. 1996), In re Rovka, 490 F.2d 981, 180 USPQ 580, 583 (CCPA 1974). Furthermore, the showing of a suggestion, teaching, or motivation to combine prior teachings "must be clear and particular." In re Dembiczak, 175 F.3d 994, 50

USPQ2d 1614 (Fed. Cir. 1999). These requirements are consistent with the Patent and Trademark Office's own examination guidelines governing the formation of obvious type rejections, see MPEP §2142.

Relative to claim 9, which was rejected under 35 U.S.C. 103(a) as being unpatentable over Pequet (EP Published Application No. 0,698,303), Pequet suffers from the same deficiencies noted above relative to claim 1, a deficiency which has not been specifically addressed relative to the specific objection. The same is generally the case relative to claims 13, and 16, which have been improperly rejected under 35 U.S.C. 103(a) as being unpatentable over Pequet (EP Published Application No. 0,698,303) in view of Lehmusto (US Patent No. 6,108,551) for the same reasons noted above with respect to independent claims 1 and 14. Similarly, claim 2 has been improperly rejected under 35 U.S.C. 103(a) as being unpatentable over Pequet (EP Published Application No. 0,698,303) in view of Minamisawa (US Patent No. 6,026,303), and claim 5 has been improperly rejected under 35 U.S.C. 103(a) as being unpatentable over Pequet (EP Published Application No. 0,698,303) in view of Kinnunen (US Patent No. 6,052,557) for similar reasons relative to claim 1 noted above.

Independent claim 26, similarly requires a mobile station being selectively assigned to receive radio communications from a remote radio for one or more of a plurality of mobile stations, which are each capable of receiving the radio communications directly from the remote radio, which is not made known or obvious by Pequet (EP Published Application No. 0,698,303) in view of Lehmusto (US Patent No. 6,108,551) for similar reasons noted above. This distinction is similarly relevant with respect to claim 27, which depends from claim 26.

Claims 21-24 and 28-40 have been improperly rejected under 35 U.S.C. 103(a) as being unpatentable over Pequet (EP Published Application No. 0,698,303) in view of Lehmusto (US Patent No. 6,108,551). However relative to independent claim 21, Pequet, '303, and/or Lehmusto, '551, fail to make known or obvious an associated mobile station, which has selectively disabled direct communication with the remote radio. As noted above, in Pequet, '303, the failure to directly communicate is not the result of a decision to selectively disable communications, but is alternatively linked to the mobile station(s), being outside of the transmission range of the base station. Consequently, there is no teaching in the cited references,

which makes known each and every feature of the claim. The same generally applies to associated dependent claims 22-24.

Relative to independent claims 28 and 29, and associated dependent claims 30-40, Pequet, '303, fails to make known a defined local group of mobile stations in radio communication with one or more remote radios of a radio communication group. To the extent that mobile stations (M1-M4) are discussed by the examiner, they are only identified as remote radios. To the extent that Lehmusto, '551, contains isolated language relative to radio unit groups, there has been no explanation as to how the two set of teachings relate, or any motivation provided, which would have led one skilled in the art to combine.

Lastly, with respect to claims 41 and 42, which have been rejected under 35 U.S.C. 103(a) as being unpatentable over Pequet (EP Published Application No. 0,698,303) in view of Luzzatta (US Patent No. 5,689,802), the same has similarly been improperly applied, where both Pequet, 303, and Luzzatta, '802, each fail to teach or suggest not energizing at least some of the circuitry needed for receiving radio communications from the remote radio in at least one or more of the plurality of mobile stations which are not assigned. Consequently, contrary to the Examiner's assertions, the references fail to make known the teachings of the corresponding claims.

In view of the above analysis, the applicants would assert, that the Examiner has failed to establish that any of the cited references either separately or in combination fail to make known or obvious any of the presently pending claims. The applicants would respectfully request that the Examiner's decision to finally reject the presently pending claims be overturned, and that the claims be permitted to proceed to allowance.

Respectfully submitted,

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IX APPENDIX OF CLAIMS

The following is the text of the claims involved in this appeal:

1. A method for receiving a radio communication in a radio communication system, the method comprising:

among a plurality of mobile stations, selectively assigning one mobile station of the plurality of mobile stations, each of which is capable of receiving radio communications directly from a remote radio, as a first mobile station for receiving radio communications from the remote radio intended for one or more of the plurality of mobile stations;

receiving the radio communication from the remote radio at the first mobile station of the plurality of mobile stations; and

transmitting a local radio communication from the first mobile station to an intended recipient mobile station of the plurality of mobile stations.

2. The method of claim 1 wherein selectively assigning comprises:
among the plurality of mobile stations, identifying a mobile station having particular battery characteristics; and
assigning the mobile station as the first mobile station for receiving radio communications.

3. The method of claim 1 wherein selectively assigning comprises:
among the plurality of mobile stations, sequentially assigning one mobile station of the plurality of mobile stations as the first mobile station.

4. The method of claim 1 wherein selectively assigning comprises:
among the plurality of mobile stations, assigning the first mobile station to receive the radio communication.

5. The method of claim 1 wherein selectively assigning comprises:
assigning the first mobile station to receive radio communications during a predetermined time period.
6. The method of claim 1 wherein selectively assigning comprises:
assigning the first mobile station to receive radio communications; and
subsequently, de-assigning the first mobile station and assigning another mobile station of the plurality of mobile stations to receive radio communications.
7. The method of claim 1 wherein selectively assigning comprises:
among the plurality of mobile stations, identifying a mobile station having best radio reception characteristics; and
assigning the identified mobile station as the first mobile station.
8. The method of claim 1 further comprising:
decoding data in the radio communication;
identifying an intended recipient in the data; and
when the intended recipient corresponds to a mobile station of the plurality of mobile stations, transmitting the local radio communication from the first mobile station to the intended recipient mobile station.
9. The method of claim 8 further comprising:
when the intended recipient does not correspond to a mobile station of the plurality of mobile stations, discarding the radio communication.
10. The method of claim 1 further comprising:

transmitting from one mobile station of the plurality of mobile stations to a remote radio of the radio communication system identification information for each mobile station of the plurality of mobile stations.

11. The method of claim 10 further comprising:
transmitting radio communications intended for any mobile station of the plurality of mobile stations during a common predefined time period.

12. The method of claim 1 further comprising:
receiving the radio communication in accordance with a first radio communication protocol; and
transmitting the local radio communication in accordance with a second radio communication protocol.

13. The method of claim 12 further comprising:
transmitting the local radio communication at a relatively low transmit power for local reception by the plurality of mobile stations.

14. A mobile station operable in a radio communication system, the mobile station comprising:
a first radio circuit;
a local radio circuit; and
a control circuit operable in conjunction with the first radio circuit to decode a radio communication from a remote radio and operable in conjunction with the local radio circuit to transmit to an intended recipient from one or more of a plurality of mobile stations, located locally relative to the mobile station, a local radio communication in response to the radio communication, when selectively assigned to receive radio communications from the remote radio for the one or more of the plurality of mobile stations, each of which is capable of receiving radio communications directly from the remote radio.

15. The mobile station of claim 14 wherein the control circuit is further operable to identify an intended recipient of the radio communication and transmit the local radio communication to an associated mobile station when the intended recipient is the associated mobile station.

16. The mobile station of claim 14 wherein the first radio circuit comprises:
a receiver operable on a cellular radio communication system; and
a transmitter operable on the cellular radio communication system.

17. The mobile station of claim 16 wherein the local radio circuit comprises:
a local receiver operable in a short range radio communication system including at least the associated mobile station; and
a local transmitter operable in the short range radio communication system.

18. A portable electronic device comprising:
receiving means for receiving downlink radio transmissions from a remote radio, when selectively assigned to receive radio communications for one or more of a plurality of portable electronic devices; and
local transmitting means for radio communication of data to an associated portable electronic device from the one or more of a plurality of portable electronic devices, each of which is capable of receiving radio communications directly from the remote radio, in response to the downlink radio transmissions.

19. The portable electronic device of claim 18 further comprising:
decoding means for decoding the downlink radio transmission in conjunction with the receiving means.

20. The portable electronic device of claim 19 further comprising:

control means for determining an intended recipient of the downlink radio transmission.

21. A method for operating a mobile radio communication station, the method comprising:

receiving a downlink radio transmission from a remote radio;

determining an intended recipient of the downlink radio transmission; and

when the intended recipient corresponds to an associated mobile station, which is located locally relative to the mobile radio communication station receiving the downlink radio transmission, and which has selectively disabled direct communication with the remote radio, transmitting information about the downlink radio transmission to the associated mobile station on a low power local radio link.

22. The method of claim 21 further comprising:

using the low power radio link, coordinating reception of subsequent downlink radio transmissions among a plurality of mobile radio communication stations including at least the associated mobile station.

23. The method of claim 22 wherein coordinating reception comprises:

assigning a respective reception interval to each mobile radio communication station of the plurality of mobile radio communication stations.

24. The method of claim 22 wherein coordinating reception comprises:

dedicating one mobile radio communication station of the plurality of mobile radio communication stations to reception of subsequent downlink radio transmissions based on a reception parameter.

25. The method of claim 24 wherein dedicating comprises:

determining received signal strength for at least one downlink radio communication;

comparing respective received signal strengths for each mobile radio communication station of the plurality of mobile radio communication stations; and dedicating as the one mobile radio communication the mobile radio communication having best respective received signal strength.

26. A radio communication method comprising:
cooperating among a plurality of locally positioned mobile stations, each capable of directly receiving downlink radio transmissions from a remote base station in a radio communication system, to assign one mobile station of the plurality of locally positioned mobile stations to receive downlink radio transmissions from the remote base station;
at the one mobile station,
receiving a downlink radio communication at the one mobile station in accordance with a first radio communication protocol of the radio communication system,
decoding the downlink radio communication to identify an intended recipient of the downlink radio communication, and
when the intended recipient is another station of the plurality of locally positioned mobile stations, transmitting information about the downlink radio communication to the other mobile station using a low-power local radio communication protocol.

27. The radio communication method of claim 26 wherein transmitting information comprises transmitting data in accordance with the Bluetooth radio communication protocol.

28. A radio communication method comprising:
defining a local group of mobile stations in radio communication with one or more remote radios of a radio communication system;

within the local group, assigning a first mobile station for receiving downlink transmissions from the one or more remote radios;
subsequently, receiving the downlink transmissions;
identifying in the downlink transmissions data intended for one or more members of the local group; and
communicating the data from the first mobile station to the one or more members over a local radio communication system.

29. A method comprising:

wirelessly communicating among a local group of electronic devices within local communication range of the other electronic devices within the local group and within radio communication range of a remote radio;
receiving at an assigned electronic device a radio transmission from the remote radio;
at the assigned electronic device, determining one or more intended recipients of the radio transmission;
when the one or more intended recipients corresponds to a member of the local group other than the assigned electronic device, wirelessly communicating to the member information about the radio transmission.

30. The method of claim 29 wherein wirelessly communicating comprises:
transmitting data from a first member of the local group intended for one or more other members of the local group; and
receiving the data at at least some of the one or more other members of the group.

31. The method of claim 29 further comprising:
assigning the assigned electronic device for receiving radio transmissions from the remote radio for all members of the local group.

32. The method of claim 31 wherein assigning comprises:

designating one electronic device of the local group as the assigned electronic device based on a performance characteristic for at least some of the members of the local group.

33. The method of claim 32 further comprising:
measuring a reception characteristic at at least some members of the group;
wirelessly communicating information about measured reception characteristics to other members of the group; and
designating the one electronic device as the assigned electronic device based on the measured reception characteristics.

34. The method of claim 31 further comprising:
de-assigning the assigned electronic device; and
assigning a next assigned electronic device for receiving the radio transmissions from the remote radio for all members of the local group.

35. The method of claim 31 further comprising:
distributing assignment for receiving radio transmissions from the remote radio for all members of the local group among all members of the local group.

36. The method of claim 29 further comprising:
distributing assignment for receiving radio transmissions from the remote radio among members of the local group.

37. The method of claim 29 wherein receiving a receiving a radio transmission comprises:
detecting a downlink transmission from a remote radio;
decoding the downlink transmission to extract data embedded in the downlink transmission; and

identifying the one or more intended recipients in response to the data.

38. The method of claim 29 wherein wirelessly communicating comprises:
transmitting information from a first electronic device according to a predefined wireless
data communication protocol; and
receiving the information at at least a second electronic device.

39. The method of claim 38 wherein the predefined wireless protocol comprises the
Bluetooth standard.

40. The method of claim 28 wherein the transmission range of the radio
communications with the remote radios is greater than ten kilometer and the transmission range
of the radio communications over the local radio communication system is less than 100 meters.

41. A method for receiving a radio communication in a radio communication system,
the method comprising:

among a plurality of mobile stations, selectively assigning one mobile station of the
plurality of mobile stations as a first mobile station for receiving radio
communications from the remote radio;

not energizing at least some of the circuitry needed for receiving radio communications
from the remote radio in at least one or more of the plurality of mobile stations
which are not assigned, while radio communications from the remote radio are
being transmitted;

receiving the radio communication from the remote radio at the first mobile station of the
plurality of mobile stations; and

transmitting a local radio communication from the first mobile station to an intended
recipient mobile station of the plurality of mobile stations.

42. The method of claim 41 wherein the circuitry not energized includes one or more of

analog front end circuitry, decoders, and controllers.